

CHAPTER 12
FORMAL REVIEW AND WAIVER OF RULES

876—12.1(17A) Requests to review. Any interested person, association, agency, or political subdivision may submit a written request to the workers’ compensation commissioner requesting the agency to conduct a formal review of a specified rule. Upon approval of that request by the workers’ compensation commissioner, the agency shall conduct a formal review of a specified rule to determine whether a new rule should be adopted instead or the rule should be amended or repealed. The agency may refuse to conduct a review if it has conducted such a review of the specified rule within five years prior to the filing of the written request.

876—12.2(17A) Review of rules. In conducting the formal review, the agency shall prepare within a reasonable time a written report summarizing its findings, its supporting reasons, and any proposed course of action. The report must include a concise statement of the agency’s findings regarding the rule’s effectiveness in achieving its objectives, including a summary of any available supporting data. The report shall also concisely describe significant written criticisms of the rule received during the previous five years, including a summary of any petitions for waiver of the rule received by the agency or granted by the agency. The report shall describe alternative solutions to resolve the criticisms of the rule, the reasons any were rejected, and any changes made in the rule in response to the criticisms as well as the reasons for the changes. A copy of the agency’s report shall be sent to the administrative rules review committee and the administrative rules coordinator. The report must also be available for public inspection.

876—12.3(17A) Form of criticism. The Workers’ Compensation Commissioner, 1000 E. Grand, Des Moines, Iowa 50319-0209, is designated as the office where interested persons may submit written criticism regarding an administrative rule of the Workers’ Compensation Division[876]. A criticism of a specific rule must be more than a mere lack of understanding of a rule or a dislike regarding the rule. To constitute a criticism of a rule, the criticism must be in writing, indicate it is a criticism of a specific rule, be signed by the complainant, not be part of any other filing with the workers’ compensation commissioner or department of workforce development, and have a valid legal basis for support. All criticisms received on any rule will be kept in a separate record for a period of five years by the workers’ compensation commissioner and be a public record open for public inspection. All criticisms must substantially conform to the following form:

BEFORE THE WORKERS’ COMPENSATION COMMISSIONER	
CRITICISM BY (NAME OF PERSON SUBMITTING CRITICISM).	CRITICISM OF (SPECIFY RULE THAT IS CRITICIZED).

Reasons for criticism:
Name, address, telephone number and signature of person submitting criticism.

876—12.4(17A) Requests for waiver of rules. Requests for waiver of a rule in the Workers’ Compensation Division[876] of the Iowa Administrative Code shall be made to the Workers’ Compensation Commissioner, 1000 E. Grand, Des Moines, Iowa 50319-0209. All requests for waiver of a rule must be in writing and are a public record open for inspection. The person requesting the waiver must submit all facts relied upon in requesting the waiver. The person requesting waiver of the rule must provide clear and convincing evidence that compliance with the rule will create an undue hardship on the person requesting the waiver. A concise memorandum brief and argument, if any is filed, shall be attached to the request for waiver at the time the request is filed. The workers’ compensation commissioner shall grant or deny the waiver within 60 days of the date the request is filed with the agency. The workers’ compensation commissioner shall deny the request if the request is for waiver of a statute. If the request for waiver relates to a time requirement of a rule, the request must be received before the time specified in the rule has expired. The workers’ compensation commissioner may deny the request if the request does not comply with the provisions of this rule. All requests for waiver must substantially conform to the following form:

BEFORE THE WORKERS’ COMPENSATION COMMISSIONER	
(NAME OF PERSON REQUESTING WAIVER).	} REQUEST FOR WAIVER OF (SPECIFY RULE FOR WHICH WAIVER IS REQUESTED).

Reasons for requesting waiver:
Name, address, telephone number and signature of person submitting waiver request.
These rules are intended to implement Iowa Code sections 17A.4(1)“b” and 17A.7.
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